

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BLUEFIELD DIVISION**

<b>KELLY WAYNE CHRISTIAN,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. 1:19-cv-00271</b>
	)	
<b>J.A. TUPPER,</b>	)	
	)	
<b>Defendant.</b>	)	

**ORDER**

The Defendant, by counsel, has filed with the Court and served on Plaintiff, who is acting *pro se*, Defendant's Motion to Dismiss and accompanying Memorandum in Support of same (ECF Nos. 12, 13).

Accordingly, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4<sup>th</sup> Cir. 1975), Plaintiff is hereby notified that he has the right to file a response to the Defendant's Motion and submit Affidavit(s) or statements subject to the penalties of perjury, exhibits, and/or other legal or factual material supporting his positions and issues in the case as they are challenged by Defendant in the aforesaid Motion and Memorandum. Plaintiff is advised that actual statements in Affidavits or Declarations submitted by Defendant will be accepted as true unless Plaintiff sets forth facts in response indicating the existence of a genuine or actual dispute of fact for trial. In response to Defendant's Motion, Plaintiff must set out either in his own Affidavit or sworn statement or the Affidavits or sworn statements of other witnesses, specific facts which show that Plaintiff and the Defendant actually disagree about one or more important and material fact or facts presented by this case. In the Affidavits and exhibits,

Plaintiff should address, as clearly as possible, the issues and facts stated in the **Motion** and in the Affidavits submitted by Defendant. If Plaintiff chooses to file a response in opposition to the **Motion**, it is hereby **ORDERED** that Plaintiff's response shall be filed with the Clerk of this Court on or before **August 2, 2019**. Plaintiff shall serve copies of his response in opposition to Defendant's **Motion** on counsel for the Defendant.

Plaintiff is also advised that a failure to respond to Defendant's **Motion** may result in a recommendation of denial of the relief sought in the Complaint and dismissal of this suit. In preparing a response, Plaintiff should be aware of the fact that a knowing assertion of a falsehood in order to avoid dismissal could, if proven, constitute perjury punishable by law.

Following service of Plaintiff's response to Defendant's **Motion**, if such is filed, Defendant will have seven (7) business days within which to file a reply, and the parties are advised that, after the passage of the time provided for a response and a reply, the Court will consider the **Motion** ready for decision.

The Clerk is hereby directed to mail a copy of this Order to Plaintiff, who is acting *pro se*, and to counsel of record.

ENTER: July 19, 2019.



Omar J. Aboulhosn  
United States Magistrate Judge